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DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-818]

Low Enriched Uranium from France: Initiation of Expedited Changed Circumstances Review, and Preliminary Results of Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: Pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216 and 351.221(c)(3), the Department of Commerce (the Department) is initiating a changed circumstances review (CCR) of the antidumping duty order on low-enriched uranium (LEU) from France with respect to Eurodif SA and AREVA Inc. (collectively, AREVA).

Moreover, the Department has determined that it is appropriate to conduct this CCR on an expedited basis. We invite interested parties to comment on these preliminary results.

DATES: EFFECTIVE DATE: INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4261.

SUPPLEMENTARY INFORMATION:

Background

On February 13, 2002, the Department published an order on LEU from France.¹ The order expressly excludes from the scope LEU that meets the requirements for re-exportation, including re-exportation within 18 months of entry.²

On December 5, 2011, AREVA requested that the Department initiate and conduct an expedited CCR to amend the scope of the order to extend by 18 months the deadline for re-exporting an entry of LEU for which AREVA reported it would not be able to meet the deadline for re-exportation.³ At the time of entry, the LEU at issue met the requirements for exclusion from the scope outlined above. On April 2, 2012, the Department published the final results of the CCR, extending the deadline for re-exportation of this sole entry by 18 months, to no later than November 1, 2013.⁴

On July 8, 2013, AREVA requested that the Department initiate a CCR in order to further extend the period for the re-exportation this sole entry of LEU from November 1, 2013, until November 1, 2015.⁵ AREVA also requested that the Department conduct the review on an expedited basis. On November 7, 2013 the Department published the final results of the CCR, extending the deadline for re-exportation of this sole entry until November 1, 2015.⁶ The

¹ See Notice of Amended Final Determination and Notice of Antidumping Duty Order: Low Enriched Uranium From France, 67 FR 6680 (February 13, 2002).

² See id.

³ See Letter from AREVA, “Low Enriched Uranium from France,” dated December 5, 2011.

⁴ See Low Enriched Uranium from France: Final Results of Antidumping Duty Changed Circumstances Review, 77 FR 19642 (April 2, 2012) (Final Results of Changed Circumstances Review).

⁵ See Letter from AREVA, “Request for Changed Circumstances Review,” dated July 8, 2013.

⁶ See Low Enriched Uranium from France: Final Results of Antidumping Duty Changed Circumstances Review, 78 FR 66898 (November 7, 2013) (Final Results of Second Changed Circumstances Review).

Department further determined that this would be the final extension for re-exportation of this specified entry.⁷

On November 10, 2014, AREVA submitted its third request for a CCR, seeking an extension for an indefinite period of time for the re-exportation of the specified entry of LEU covered in two previous CCRs, and AREVA requested that the Department conduct this CCR on an expedited basis.⁸

Scope of the Order

The product covered by the order is all LEU. LEU is enriched uranium hexafluoride (UF₆) with a U²³⁵ product assay of less than 20 percent that has not been converted into another chemical form, such as UO₂, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of the order. Specifically, the order does not cover enriched uranium hexafluoride with a U²³⁵ assay of 20 percent or greater, also known as highly-enriched uranium. In addition, fabricated LEU is not covered by the scope of the order. For purposes of the order, fabricated uranium is defined as enriched uranium dioxide (UO₂), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U₃O₈) with a U²³⁵ concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U²³⁵ concentration of no greater than 0.711 percent are not covered by the scope of the order.

Also excluded from the order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S.

⁷ See *id.*

⁸ See Letter from Stuart Rosen Esq., “Request for Changed Circumstances Review,” dated November 10, 2014 (Third CCR Request).

fabricator into uranium dioxide (UO₂) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b) of the Act and 19 CFR 351.216 and 351.221(c)(3), the Department is initiating a CCR of the antidumping duty order on LEU from France with respect to AREVA. Based on the information and documentation AREVA submitted in its November 10, 2014 letter, we find that we have received sufficient information to warrant initiation of a review to determine if changed circumstances exist to support the extension of time to re-export the specified entry of LEU.

Section 351.221 (c)(3)(ii) of the Department's regulations permits the Department to combine the notice of initiation of a changed circumstances review and the notice of preliminary results if the Department concludes that expedited action is warranted. In this instance, because we have on the record the information necessary to make a preliminary finding, we find that

expedited action is warranted, and have combined the notice of initiation and the notice of preliminary results.

Preliminary Results of Expedited Changed Circumstances Review

Based on the Department's analysis of the information provided by AREVA in its request for a CCR, in accordance with 19 CFR 351.216, we preliminarily determine that changed circumstances to extend the time period for re-exportation a third time do not exist, and that AREVA should not be granted an additional extension of time to re-export this one entry of subject merchandise.

In its Third CCR Request, AREVA explained that the Japanese end-user remained unable to take delivery of the subject LEU due to conditions caused by the March 11, 2011 earthquake and tsunami in Japan, that the Japanese end-user was working to comply with "detailed and lengthy" regulatory requirements of Japan's Nuclear Regulatory Authority, and that AREVA and the Japanese end-user were unable to confirm when re-export of the subject entry of LEU would be possible.⁹

In the Final Results of Second Changed Circumstances Review, the Department stated that ". . . if the Japanese end-user is unable to take delivery by the November 1, 2015 deadline, AREVA, the U.S. importer as well as the French exporter, will be required to re-export this sole entry to France or pay antidumping duties on the entry at the applicable rate."¹⁰ Given that the situation where the Japanese end-user would be unable to take delivery was anticipated in the previous CCR, we do not consider this situation to be "changed circumstances."

The Department stated in the Final Results of Second Changed Circumstances Review,¹¹ that this would be the final extension, and further stated in the accompanying decision

⁹ See id. at 3-4.

¹⁰ See Final Results of Second Changed Circumstances Review, 78 FR at 66899.

¹¹ See id.

memorandum that to allow the re-export deadline to be extended indefinitely would mean “ignoring this aspect of the scope.”¹²

The Department preliminarily determines that changed circumstances do not exist beyond the changed circumstances already recognized in the two previous changed circumstances reviews, and that AREVA will not be granted a further extension to re-export the specified entry of LEU.

Public Comment

Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in the case briefs, may be filed no later than 5 days after the submission of case briefs. All written comments shall be submitted in accordance with 19 CFR 351.303. All submissions are to be filed electronically using Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), and must also be served on interested parties.¹³ ACCESS is available to registered users at <http://access.trade.gov>, and it is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by the Department’s electronic records system, ACCESS, by 5 p.m. Eastern Time on the deadline.¹⁴

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held no later than 37 days after the date of publication of this notice, or the first business day thereafter. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing.

¹² See Memorandum to Paul Piquado, “Decision Memorandum for Final Results of Changed Circumstances Review of Low Enriched Uranium from France,” October 31, 2013.

¹³ See 19 CFR 351.303(f).

¹⁴ See 19 CFR 351.303(b).

Notifications to Interested Parties

Consistent with 19 CFR 351.216(e), we will issue the final results of this changed circumstances review no later than 270 days after the date on which this review is initiated, or within 45 days after the date on which this review is initiated if all parties agree to our preliminary finding. The final results will include the Department's analysis of issues raised in any written comments.

We are issuing and publishing these preliminary results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act and 19 CFR 351.216.

Dated: February 9, 2015.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

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